



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Docket No. 14136

# 8  
6.23.99

In Re The Application of )

ALLAN S. HODGSON et al. )

Serial No. 08/879,322 )

Filed: June 20, 1997 )

For: MEASUREMENT OF )  
FRUIT PARTICLES )

Examiner: Mehrdad Dastouri

Art Unit 2723

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JUN 22 99  
GROUP 2700

STATEMENT REGARDING SUBSTANCE OF INTERVIEW

BOX AF  
Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Dear Sir:

Applicants undersigned attorney, Terrence W. McMillin, disagrees with the Interview Summary relating to the telephone interview on June 2, 1999. Applicant's attorney initiated the interview to determine whether or not it would be worthwhile to submit further arguments and amendments in response to the pending final rejection. In discussing these issues, Examiner Dastouri expressed his opinion that the disclosure of the application lacked detail regarding image enhancement and thresholding.

Applicant's undersigned attorney did not anticipate and was not prepared to discuss the adequacy of the disclosure. No objection or rejection relating to the disclosure was pending or had ever been made. Applicant's attorney did point out

that some of the hardware and software used by the inventors were off-the-shelf items. Applicant's attorney did not say and does not agree with the following statement: "Mr. McMillin agreed that there is not adequate image processing details disclosed in the Application and devices utilized are mainly off-shelf items." To the contrary, Applicant's attorney believes the disclosure fully and adequately discloses the invention and supports the full scope of the claims. Moreover, the devices shown in the drawings, described in the application, and defined in the claims are not off-the-shelf items but are the invention of the Applicants.

Applicant's attorney does agree that some of the elements, such as the camera and the computer with image analyzing software, are off-the-shelf items and are not the invention of these inventors. It is within the skill of one of ordinary skill in the art based on the disclosure of the application to select and obtain suitable materials. However, when the invention is properly considered as a whole, it would not have been obvious as stated in the final rejection.

The Applicant respectfully submits the final rejection is improper and intends to appeal.

Respectfully submitted,



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Terrence W. McMillin  
Registration No. 30,476

June 16, 1999

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20231, ON June 16, 1999.

Terence W. McMullin  
REGISTERED ATTORNEY FOR  
APPLICANT

June 16, 1999  
DATE